

**Rules and Procedures of the  
BALIF Judiciary Committee's  
Subcommittee on Endorsement of  
Candidates, Electoral Measures, and Ballot Propositions**

Adopted February 9, 1998  
Amended February 16, 2010

Rule 1: The Subcommittee's Charge

- (a) The Subcommittee on Endorsement of Candidates, Electoral Measures, and Ballot Propositions ("the Subcommittee") evaluates candidates for election or appointment, electoral measures, and ballot propositions, and reports the results of its evaluations with recommendations for endorsement to the members and Board of Directors ("Board") of the Bay Area Lawyers for Individual Freedom ("BALIF" or "the Organization"). The Board may elect either to accept or reject the Subcommittee's recommendation.
- (b) The Subcommittee may evaluate for endorsement:
  - (1) candidates for judge or justice for any court with jurisdiction in the Bay Area;
  - (2) candidates for District Attorney, Public Defender, Sheriff and City Attorney of any jurisdiction in the Bay Area;
  - (3) candidates for Governor and Attorney General;
  - (4) any other candidate for elected or appointed office, electoral measure, or ballot proposition when directed to do so by the BALIF Board.
- (c) Unless the Board directs otherwise, the Subcommittee shall not make recommendations in partisan primary elections.

Rule 2: Subcommittee Membership

- (a) The two Co-Chairs of the Judiciary Committee, selected as provided by the BALIF by-laws, shall be the Co-Chairs of the Subcommittee;
- (b) Membership in the Subcommittee is open to all members of BALIF in good standing.
- (c) The Co-Chairs shall attempt to recruit and maintain a racially and geographically diverse and gender-balanced membership.

*Comment: The BALIF by-laws provide that one co-chair shall be a BALIF director and the other co-chair shall be a person of the opposite sex who is chosen by the committee as a whole. There is no quorum requirement.*

### Rule 3: General Procedures of the Subcommittee

- (a) Unless directed by the Board to evaluate candidates for a particular office, the Subcommittee shall exercise its discretion in determining which candidates specified in Rule 1(b) to evaluate for endorsement. In making that determination, the Subcommittee shall consider:
  - (1) any request for endorsement by the candidate, which may be made in response to a solicitation by the Subcommittee;
  - (2) any request for endorsement by a member in good standing of BALIF;
  - (3) any other relevant factor, including the logistics of making the evaluation, the overall workload of the Subcommittee, and the relative usefulness of an evaluation to BALIF in light of the number of BALIF members who practice in the relevant jurisdiction.
  
- (b) The Subcommittee shall obtain and consider the following when evaluating a candidate:
  - (1) written responses provided by the candidate to an Endorsement Questionnaire, which shall be developed by the Subcommittee, sent with a standard cover letter to candidates, and returned to the Subcommittee;
  - (2) responses to a personal interview of the candidate conducted after the candidate's Endorsement Questionnaire has been returned to and reviewed by the Subcommittee. The Subcommittee may in exceptional circumstances evaluate a candidate without a personal interview.
  
- (c) The Subcommittee may obtain and consider the following when evaluating a candidate:
  - (1) written or oral information provided by the candidate;
  - (2) the candidate's failure to respond to a request for written information by the Subcommittee;

- (3) information provided by others who know the candidate or the candidate's record or views.
- (d) The Subcommittee may obtain and consider any information it deems relevant when evaluating an electoral measure or ballot proposition.

#### Rule 4: Recommendations for Endorsement

- (a) After receiving the information specified in paragraphs (b) through (d) of Rule 3, the Subcommittee shall discuss the qualifications of the candidates or the merits of the electoral measure or ballot proposition.
- (b) (1) By a majority vote of the members of the Subcommittee present and qualified to vote, the Subcommittee may with respect to any office, electoral measure, or ballot proposition:
  - (a) recommend that BALIF endorse a candidate for the office or take a position on an electoral measure or ballot proposition;
  - (b) recommend that BALIF not endorse any candidate for the office or take a position on an electoral measure or ballot proposition;
  - (c) decline to make a recommendation.
- (2) If more than one candidate is running for office, Subcommittee members may vote to recommend more than one candidate, and each candidate receiving a majority of the vote shall be recommended for endorsement.
- (3) A Subcommittee member is qualified to vote on a recommendation for endorsement if the member has attended:
  - (A) at least three meetings of the Subcommittee within 12 months preceding the date of the meeting at which the vote is taken, and
  - (B) the interviews of all candidates for the particular office or BALIF hearings regarding the particular electoral measure or ballot proposition being considered and has received and reviewed all written materials submitted to the Subcommittee regarding the candidate, electoral measure, or ballot proposition.

- (c) (1) The Subcommittee shall report to the Board the candidates it considered along with its recommendations, if any, and the reasons for the recommendations. Each recommendation shall include the numerical vote of the Subcommittee and the names of voting Subcommittee members, but the report shall not identify the vote of individual Subcommittee members.
- (2) The Endorsement Questionnaire shall be available for review by any BALIF member.

#### Rule 5: Membership Plebiscite Procedures

- (a) A plebiscite of the general membership of BALIF shall be held to determine what endorsement, if any, BALIF will make. Unless the Board provides for the plebiscite to be conducted at a meeting of the membership, the Subcommittee shall conduct the plebiscite by mail at a time selected by it.
- (b) Each member in good standing who is eligible to vote can vote to endorse:
  - (1) one or more candidates for each office, or
  - (2) one position for each electoral measure or ballot proposition considered.
- (c) Candidates, electoral measures, or ballot propositions are endorsed by BALIF if:
  - (1) at least 20% of BALIF's members in good standing who are eligible to vote return mail ballots by the designated date or are present at the meeting during which the plebiscite is held, and
  - (2) any of the following occurs:
    - (i) any candidate receives a vote on at least 50% of the total ballots cast, or
    - (ii) any measure or ballot proposition receives a majority of the total vote cast.
  - (3) if 20% of BALIF's members have not returned ballots by the date so designated, and if no plebiscite meeting is scheduled to be held, then the Board may vote to endorse one or more candidates, measures, or ballot propositions,

taking into consideration the recommendations of the judiciary committee.

- (d) One Co-Chair shall retain the Endorsement Questionnaires and plebiscite ballots for at least 2 months following the announcement of BALIF's endorsement, after which the materials may be destroyed.

#### Rule 6: Confidentiality

- (a) The Subcommittee's deliberations, and the votes of particular Subcommittee members are confidential and shall not be disclosed to anyone other than Subcommittee members and BALIF Board members.
- (b) The Subcommittee will keep confidential the identity of any person who provides information pursuant to paragraphs (b) and (c) of Rule 3 and requests confidentiality.
- (c) The Subcommittee shall meet in closed session if necessary to preserve confidentiality.
- (d) One Co-Chair shall retain the Endorsement Questionnaires for at least 2 months following the announcement of BALIF's endorsement after which the materials may be destroyed.

#### Rule 7: Conflict of Interest

- (a) If a Subcommittee member has or had a significant familial, professional, business, social, political, or other relationship, whether adversarial, allied, direct, or indirect, with a candidate, the member shall:
  - (1) disclose the nature and circumstances of the relationship by letter to the Subcommittee Co-Chairs or, in the case of a Subcommittee Co-Chair, to the other Co-Chair and to the BALIF Co-Chairs; and
  - (2) after considering factors including but not limited to the nature of the relationship, the remoteness in time of the relationship, the duration of the relationship, and the extent the relationship is distinguishable from a casual, incidental contact, be disqualified from participating in the endorsement process as to all candidates for the office for which that candidate is being evaluated and refrain from attempting to influence another Subcommittee member's evaluation of the candidate if

- (A) the member determines that the relationship would unduly influence the member's consideration of the qualifications of any candidate for that office,
  - (B) the Board-appointed Subcommittee Co-Chair concludes the member should be disqualified, or
  - (C) in the case of a Subcommittee Co-Chair, the BALIF Co-Chairs conclude the member should be disqualified.
- (b) No Subcommittee member or other person may attend or participate in any Subcommittee meeting, deliberation, interview, or vote concerning a candidate, electoral measure, or ballot proposition if the member or other person has or had any of the following relationships to the subject of the Subcommittee's action:
- (1) Candidate, framer, or official sponsor,
  - (2) Campaign worker or participant, paid or unpaid, including campaign finance solicitor or member of a campaign-related committee, regardless of the extent of the persons involvement in the campaign,
  - (3) Campaign contributor,
  - (4) Endorser, including publicly participating in any manner in another organization's endorsement process but not including casting a secret ballot in another organization's endorsement vote.
- (c) Subcommittee members shall
- (1) before the Endorsement Questionnaires are distributed to Subcommittee members, certify that they are not disqualified by paragraph (b), and
  - (2) avoid creating a relationship specified in paragraph (b) until BALIF announces its endorsement.
- (d) Disqualification of Co-Chairs
- (1) If the Board-appointed Co-Chair is disqualified from participating in the endorsement process pursuant to paragraphs (a)(2) or (b) of this rule, the Board Co-Chairs will designate another Board member to act as Co-Chair for the

endorsement process as to that candidate, electoral measure, or ballot proposition.

- (2) If the other Co-Chair is disqualified from participating in the endorsement process pursuant to paragraphs (a)(2) or (b) of this rule, the Board-appointed Co-Chair will designate another Subcommittee member to act as Co-Chair for the endorsement process as to that candidate, electoral measure, or ballot proposition.

*Comment: The rules previously provided that government employment did not disqualify a member when the titular head or supervisor of the member's office was a candidate. That provision has not been retained. That situation is adequately addressed by Rule 7(a). If the member works in a large agency covered by civil service and the head of the agency is a candidate, it may be that disqualification is unnecessary. On the other hand, if that same member's supervisor is a candidate or the member works in a smaller agency without civil service protection and has more substantial contact with the "titular head" of the agency, disqualification may be necessary. The disclosure provision of the former rule is also adequately covered by Rule 7(a) .*

#### Rule 8: Violations

- (a) Any violation of these rules does not invalidate any action taken by the Subcommittee.
- (b) A member may be removed from the Subcommittee for violating these rules or for other good cause by a Co-Chair with the concurrence of the BALIF Co-Chairs.

Adopted by resolution of the BALIF Board of Directors, on February 16, 2010.

Certified this 9th day of March, 2010, at San Francisco, California.

BALIF Secretary

Nancy N. Lawlor